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Supreme Court, U.S.
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No. 93-880

In The

Supreme Court of the United States

October Term, 1993

JUDY MADSEN, ED MARTIN and SHIRLEY HOBBS,

Petitioners,

v.

WOMEN'S HEALTH CENTER, INC., AWARE WOMEN CENTER FOR CHOICE, INC., EPOC CLINIC, INC. and CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,

Respondents.

On Petition For Writ Of Certiorari To The Supreme Court Of Florida

RESPONSE TO THE PETITION FOR WRIT OF CERTIORARI

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Recognizing the confusion which has been introduced into the law by the decision of the Eleventh Circuit Court of Appeal in a collateral case, the Respondents do not oppose the petition.

The unanimous opinion of the Supreme Court of Florida from which the Petitioners seek relief is an application of settled law to the specific facts of this case and it is a statement of traditional time, place and manner restrictions. Were the Supreme Court of Florida opinion the only court action addressing the validity of the trial court injunction, the Respondents would oppose the granting of the petition for Writ of Certiorari.

However, there is another opinion which creates confusion about the validity of the injunctive order and that opinion, issued by the Eleventh Circuit Court of Appeal in a collateral federal case, seems to suggest that the injunctive order violates principles protecting free speech. Although that order was entered in a case which was before the Eleventh Circuit without a record and in a context where the only issue should have been the propriety of an order dismissing the collateral attack on a state court injunctive order, the Eleventh Circuit opinion seems to suggest that the state trial judge was in error. Because of the extraordinary holding of the Eleventh Circuit opinion in this collateral case, a holding which the Eleventh Circuit concedes is in conflict with the decision of another circuit and which is, in fact, in conflict with the decisions of several circuits, the Respondents fear that, if a mandate issues from the Eleventh Circuit, the federal District Judge may read the Eleventh Circuit opinion as

foreclosing important issues. Any federal order against the trial judge and the other defendants in the federal case would expose the clinic to a period of renewed harassment.

The Respondents are confident of their legal position as vindicated by the unanimous Supreme Court of Florida decision and believe that the most orderly process to resolve the confusion introduced by the Eleventh Circuit opinion is to agree that this Court should accept jurisdiction.

The Respondents do not agree with the Petitioners' characterizations of the law in the various federal circuits and the state courts and retain their right to argue that law if the Court accepts jurisdiction.

Respectfully submitted,

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